

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

DONALD L. PALMER,
Petitioner,

-V-

**Case No. C-1-00-882
Judge Weber
Magistrate-Judge Merz**

MARGARET A. BAGLEY, Warden,
Respondent.

**PETITIONER'S MOTION FOR EXTENSION OF TIME
TO FILE OBJECTIONS TO MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

Comes the Petitioner, by counsel, and moves the Court for an extension of time to February 6, 2005, within which to file his objections to the Report and Recommendations filed by the Magistrate Judge on December, 16, 2005 (Doc. 103). As grounds, Petitioner states that counsel's pre-existing schedules, the number of claims as well as the number and complexity legal and factual issues addressed in the 122-page Report, make it extremely difficult, if not impossible for counsel to adequately prepare their objections for Petitioner within the time period originally allowed by the statute and set by the Court (January 4, 2006).

MEMORANDUM IN SUPPORT

Petitioner's counsel spoke with Assistant Attorney General Heather Gosselin on January 3, 2006 and she has no objection to extending the time in which to file objections to February 6, 2006.

On December 16, 2005, the Magistrate Judge filed his Report and Recommendations, recommending denial of the Petition for Writ of Habeas Corpus on all grounds asserted in the Petition. The Report is 122 pages, addressing numerous factual matters and legal issues. A deadline for filing objections has been set for January 4, 2006. Pre-existing schedules and commitments to other cases prevent the undersigned counsel from being able to adequately prepare objections and comply with the specificity requirement of 28 U.S.C. §636(b)(1)(c) and the case law interpreting that provision. More specifically, lead counsel, Keith Yeazel, had to prepare and file a Memorandum in Support of Jurisdiction in the Ohio Supreme Court on December 22, 2005. Mr. Yeazel has a brief due in the case of *Carter v. Mitchell* pending before the Court on January 5, 2006.

Co-counsel, Michael O'Hara, had previously scheduled depositions during portions of the weeks of December 19 and 26 and was previously committed to preparing and filing a Petition for Certiorari with the United States during that same period. Mr. O'Hara has three depositions and a Final Pre-Trial hearing scheduled for the week of January 2, 2006. Additionally, he has a jury trial scheduled to begin January 17, 2006 and continue into the following week and an arbitration scheduled to begin February 6, 2006 and continue for at least three days. This trial and arbitration schedule together with preparation time will demand much of counsel's time during January through mid February.

Although counsel has begun review of the Magistrate's Report and Recommendations and the related record and case law, it has become apparent that they will need an extension of time to March 6, 2006, to adequately prepare objections and properly address all of the matters raised in the Report and Recommendations.

Accordingly, Petitioner respectfully requests an extension to February 6,

2006, inclusive, within which to prepare his objections to the Magistrate's Report and Recommendations.

Respectfully submitted,

/s/ Keith A. Yeazel

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CERTIFICATION

I hereby certify that I have, this 3rd day of January, 2005, served electronically through the Court's ECF System a copy of the foregoing pleading to the following attorneys of record:

ANNA FRANCESCHELLI, ESQ.
HEATHER GOSSELIN, ESQ.
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/s/ Keith A. Yeazel

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